IN THE HIGH COURT OF BOMBAY AT GOA
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CRIMINAL REVISION APPLICATION NO. 23 OF 2002

Mr. Eleutheiro Britto,
r/o House No.443,
Arrarim, Socorro,
Porvorim, Bardez, Goa. ... Applicant.

Versus

1. State,

2. Shri Caetano Inacio Fernandes, r/o Arrarim, Socorro, Porvorim, Bardez, Goa, represented by his power of attorney holder Smt. Annie Fernandes, r/o Arrarim, Socorro, Porvorim, Bardez, Goa. ... Respondent.

Shri S. D. Lotlikar, Senior Advocate with Shri A. Bhobe, advocate for the petitioner.

Shri A. P.Lawande, Public Prosecutor for respondent no.1.

Shri G. Kanekar with Ms. Harjee, advocates for respondent no.2.

CORAM: P. V. KAKADE, J.
DATE: 10th October, 2002.

ORAL JUDGMENT

Rule. Rule made returnable forthwith.

I have heard the learned counsel for all the concerned parties. Shri Lotlikar, learned Senior Counsel for the petitioner has brought to my notice the Judgment passed by the learned Single Judge of this Court in Criminal Revision Application No.2 of 2002 dated 8th March, 2002, on a similar issue which is involved in this petition. It is also a fact that earlier, no Executive Magistrate was empowered by the State to exercise powers

under Section 133 of the Code of Criminal Procedure. However, by Notification dated 24th January, 2002, the State has specially empowered all the Executive Magistrates to exercise powers under Section 133 of the Code of Criminal Procedure. In view of this position and taking into account the facts and circumstances involved in the dispute, it would be just and proper to remand the matter to the Executive Magistrate for fresh adjudication.

2. Hence, the Order passed by the IInd Additional Sessions Judge in Criminal Revision Application No.12/2001 dated 15th July, 2002. as well as the earlier Order passed by the Executive Magistrate, dated 22nd December, 2000 in Case N. MAG/SR-8/92 are hereby set aside. The matter is remanded to the Executive Magistrate for adjudication afresh. He is directed to adjudicate the dispute on merits after giving an opportunity to both the sides to participate in the effective hearing of the matter and the proceedings shall be disposed of expeditiously and in any way within four months from the date of receipt of a copy of this Order.

The Criminal Revision Application stands disposed of.

P.V. KAKADE, J.